IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928

WP(Crl.).No. 282 of 2006(S)

PETITIONER:

O.V.SHAMEER, AGED 27 YEARS,
S/O.BEERANKUTTY, NEELOTH, O.V.HOUSE,
OPP.K.K.HOSPITAL, BALUSSERI, KOZHIKODE.

BY ADV. SRI.MANJERI SUNDERRAJ
SRI.B.PREMNATH (E)

RESPONDENTS:
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1. STATE OF KERALA, REP. BY THE
COMMISSIONER OF POLICE, CALICUT CITY,
CPO, KOZHIKODE-1.

2. STATION HOUSE OFFICER,
BALUSSERI POLICE STATION, CRIME/FIR NO.463 OF
2006, BALUSSERI, KOZHIKODE.

3. STATION HOUSE OFFICER,
MEDICAL COLLEGE POLICE STATION,
MEDICAL COLLEGE, KOZHIKODE-673 008.

4. T.NASRIN BACKER, AGED 19 YEARS,
D/O.ABOOBACKER, "BISMILLAH", NANMINDA P.O.,
KOZHIKODE-673 613.

5. ABOOBACKER, AGED ABOUT 45 YEARS,
"BISMILLAH",
NANMINDA P.O, KOZHIKODE-673 613.

R1 TO 3 BY GP SHRI P.A.SALIM

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 12/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P. (CRL.) NO.282/2006 - APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 - TRUE COPY OF MARRIAGE AGREEMENT BY 1ST PETITIONER AND R4 NAZRIN

EXT.P2 - -DO- FEE RECEIPT FOR NOTICE OF INTENDED MARRIAGE UNDER SPECIAL MARRIAGE ACT

EXT.P3 - -DO- SSLC BOOK 3RD PAGE SHOWING PETITIONER'S DATE OF BIRTH AS 212.5.1979.

EXT.P4 - -DO- SSLC CARD SHOWING RESPONDENT'S DATE OF BIRTH 15.10.1987.

EXT.P5 - -DO- 1ST PETITIONER'S COMPLAINT TO SI OF POLICE,BALUSSERI

EXT.P6 - COLOUR PHOTOGRAPHS SHOWING THE 1ST PETITOINER AND R4 NASRIN (5 NOS. PRINTED ON TWO SHEETS OF PAPER)

EXT.P7 - TRUE COPY OF O.P. NO.794/2006 DATED 23.11.2006 FOR RESTITUTION OF CONJUGAL ARIGHTS FILED BY THE 1ST PETITIONER BEFORE THE FAMILY COURT, KOZHIKODE.

EXT.P8 - -DO- I.A.NO.1407/2006 IN O.P.NO.794/2006 TO GET BACK R4 AND TO SAVE HER FROM WRONGFUL CUSTODY.

EXT.P9 - SWORN AFFIDAVIT OF MS. BHAMA MOHANDAS, KALPETTA, ATTESTER OF EXT.P1 MARRIAGE AGREEMENT.

EXT.P10 - TRUE COPY OF COMPLAINT DATED 20.11.2006 BEFORE THE JFCM COURT II, PERAMBRA AS IF FILED BY R4 NASRIN

RESPONDENTS' EXHIBITS : NIL

(TRUE COPY)

P.S. TO JUDGE

J.B. KOSHY & K.PADMANABHAN NAIR, JJ.

W.P.(Crl.) No.282 of 2006 S

Dated this the 12th day of December, 2006

Judgment

Koshy,J.

Alleged detenue was present. She stated that she is not under illegal custody. It is also stated by the petitioner that case is pending before the Family Court. In the above circumstances, filing of this habeas corpus petition under article 226 of the Constitution of India itself is abuse of the process of the court. This writ petition is dismissed with a cost of Rs.2,500/- to State as State machinery was used for production of the girl. Government can take revenue recovery proceedings for realising the same, if not paid within one month from today.

J.B.KOSHY
JUDGE

K.PADMANABHAN NAIR
JUDGE

vaa